

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Arah Muaba Bey,

Plaintiff

v.

Nevada Power Company, Lisa M. Scott,

Defendants

Case No. 2:22-cv-01661-CDS-VCF

Order Overruling Objections
and Striking Affidavit

[ECF Nos. 5, 6]

On October 11, 2022, the Honorable United States Magistrate Judge Ferenbach issued an order denying without prejudice plaintiff's application to proceed *in forma pauperis* (IFP). ECF No. 4. That order directed plaintiff to either file the IFP long form application as directed and with instructions or pay the full filing fee for filing a civil action. *Id.* On October 12, 2022, plaintiff filed an objection to Magistrate Judge Ferenbach's order. ECF No. 5.

The Local Rules provide that any party wishing to object to the magistrate judge's order on a pretrial matter must file and serve specific written objections, and the deadline to file and serve any objections to a magistrate judge's order is 14 days after service of the order. *See* ECF No. 4 at 4 (citing LR IB 3-1 and 3-2). A district judge may reconsider any pretrial matter referred to a magistrate judge in a civil or criminal case under LR IB 1-3, when it has been shown the magistrate judge's order is clearly erroneous or contrary to law.

Courts must liberally construe documents filed by *pro se* litigants and afford them the benefit of any doubt. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). Even a liberal construction of plaintiff's objection, however, does not demonstrate that the magistrate judge's order was clearly erroneous or contrary to the law. Instead, plaintiff asserts in conclusory fashion, and without citation to authority, that the magistrate judge lacks the authority to order

1 the petitioner to fill out the IFP long form. ECF No. 5 at 2. Plaintiff's assertion is incorrect. Local
2 Rule IB 1-3 provides that "[a] magistrate judge may hear and finally determine any pretrial
3 matter not specifically enumerated as an exception in 28 U.S.C. § 636(b)(1)(A). LR IB 1-3.
4 Reviewing IFP applications and related filings is a pre-trial matter that a magistrate judge may
5 hear and determine. Accordingly, I overrule plaintiff's objections and affirm Magistrate Judge
6 Ferenbach's order that plaintiff's application to proceed *in forma pauperis* (ECF No. 1) be denied
7 without prejudice. ECF No. 4. Bey must either (1) file the long form application to proceed *in*
8 *forma pauperis* as specified in my order or (2) pay the full fee for filing a civil action by November
9 10, 2022. *Id.*

10 I also note that plaintiff was cautioned that continuing to file duplicative and/or
11 frivolous lawsuits may result in adverse consequences, including possible sanctions or a finding
12 that he is a vexatious litigant. *Id.* at 4. In Bey's objection, he asserts that he "has never filed a
13 lawsuit prior to this one." ECF No. 5 at 2. While that may be the case, Bey has previously
14 removed cases to this district and failed to pursue them. I take judicial notice of: (1) *State of*
15 *Nevada, et al v. Bey*, 2:18-cv-01806-APG-PAL (Bey refuses to pay a filing fee or submit an IFP
16 application after removing traffic court case to federal court); (2) *State of Nevada Superior Court, et*
17 *al v. Bey*, 2:18-cv-01807-JAD-VCF (same); (3) *State of Nevada v. Bey*, 2:21-cv-00460-APG-NJK (third
18 unsuccessful attempt to remove traffic case to federal court).

19 Plaintiff also filed a document titled "notice and affidavit of bias." The filing appears to be
20 a motion for Magistrate Judge Ferenbach to recuse himself from this case and I liberally
21 construed it as such. *See generally* ECF No. 6. However, the filing is unsupported by points and
22 authorities supporting the recusal request. *Id.* Local Rule 7-2(a) requires that "[a]ll motions—
23 unless made during a hearing or trial—must be in writing . . . and must be supported by a
24 memorandum of points and authorities." LR 7-2(a). Because Bey's motion does not comply with
25 the local rules, I hereby strike the document (ECF No. 6). LR IA 10-1 ("The court may strike any
26 document that does not conform to an applicable provision of these rules or any Federal Rule of

1 Civil or Criminal Procedure.”).

2 **V. Conclusion**

3 For the reasons set forth herein,

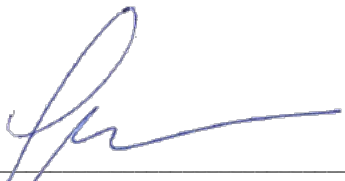
4 IT IS THEREFORE ORDERED that plaintiff’s objections [ECF No. 5] are overruled.

5 IT IS FURTHER ORDERED that plaintiff must comply with the magistrate judge’s
6 order (ECF No. 4) requiring plaintiff to either (1) file the long form application to proceed in
7 forma pauperis as specified in my order or (2) plaintiff must pay the full fee for filing a civil
8 action on or before, November 10, 2022.

9 IT IS FURTHER ORDERED that plaintiff’s notice filing [ECF No. 6] be stricken.

10 IT IS SO ORDERED.

11 DATED: November 1, 2022

12
13
14 
15 Cristina D. Silva
16 United States District Judge
17
18
19
20
21
22
23
24
25
26